

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ROBERT J. WRIGHT,

Plaintiff,

v.

Case No. 19-CV-0037

SHAUN FUNK et al.,

Defendants.

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**DEFENDANTS' ANSWER TO PLAINTIFF'S AMENDED  
COMPLAINT (DKT. 16) AND AFFIRMATIVE DEFENSES**

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Defendants Shaun Funk, Joshua Kolbo, and Ryan Neis, through their attorneys, Wisconsin Attorney General Joshua L. Kaul, Assistant Attorney General Brandon T. Flugaur, and Assistant Attorney General Eliot M. Held hereby respond to Plaintiff's Amended Complaint (Dkt. 16) as follows:

1. In responding to paragraph 1 of Plaintiff's Amended Complaint, Defendants **ADMIT** Plaintiff has filed this case alleging a violation of his rights but **DENY** they violated Plaintiff's rights.

2. In responding to paragraph 2 of Plaintiff's Amended Complaint, Defendants **ADMIT** Plaintiff was in cell 112 on Delta unit on December 3, 2018. Defendants lack personal knowledge sufficient to form a response as to the remaining allegations in this paragraph and therefore **DENY**.

3. In responding to paragraph 3 of Plaintiff's Amended Complaint, Defendant Funk **DENIES**. The remaining Defendants lack personal knowledge

sufficient to form a response and therefore **DENY**.

4. In responding to paragraph 4 of Plaintiff's Amended Complaint, Defendant Funk **DENIES**. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY**.

5. In responding to paragraph 5 of Plaintiff's Amended Complaint, Defendant Funk **DENIES**. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY**.

6. In responding to paragraph 6 of Plaintiff's Amended Complaint, Defendants lack personal knowledge sufficient to form a response about how the situation appeared to Plaintiff and therefore **DENY**.

7. In responding to paragraph 7 of Plaintiff's Amended Complaint, Defendant Kolbo **DENIES**. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY**.

8. In responding to paragraph 8 of Plaintiff's Amended Complaint, Defendant Kolbo **DENIES**. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY**.

9. In responding to paragraph 9 of Plaintiff's Amended Complaint, Defendants lack personal knowledge sufficient to form a response about how Plaintiff felt and therefore **DENY**. Defendants further **DENY** the remaining allegations in this paragraph.

10. In responding to paragraph 10 of Plaintiff's Amended Complaint, Defendants **DENY**.

11. In responding to paragraph 11 of Plaintiff's Amended Complaint, Defendant Kolbo **ADMITS** Plaintiff utilized his medical emergency button at 8:45 pm but **DENIES** the remainder. Defendant Neis **ADMITS** he went to Plaintiff's cell in response to Plaintiff's report to Kolbo that he was feeling suicidal and **DENIES** the remainder. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY** all allegations in this paragraph.

12. Defendants are unable to respond to paragraphs 12-17 of Plaintiff's Amended Complaint, because Plaintiff has not provided a signed medical record release authorization permitting Defendants to access and review his medical records.

18. In responding to paragraph 18 of Plaintiff's Amended Complaint, Defendants **ADMIT**.

19. In responding to paragraph 19 of Plaintiff's Amended Complaint, Defendant Neis **DENIES**. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY**.

20. In responding to paragraph 20 of Plaintiff's Amended Complaint, Defendant Neis **DENIES**. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY**.

21. In responding to paragraph 21 of Plaintiff's Amended Complaint, Defendant Neis **DENIES**. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY**.

22. In responding to paragraph 22 of Plaintiff's Amended Complaint,

Defendant Neis **ADMITS** he wrote Plaintiff a conduct report for lying, misuse of medication, and disruptive conduct, which resulted in a disciplinary consequence of 90 days disciplinary separation, but **DENIES** the remainder. The remaining Defendants lack personal knowledge sufficient to form a response and therefore **DENY**.

23. In responding to paragraph 23 of Plaintiff's Amended Complaint, Defendants **ADMIT** Plaintiff moved the court to amend his complaint and further **ADMIT** the court granted his motion. Defendants **DENY** Neis, or any of the Defendants, violated Plaintiff's constitutional rights.

24. Anything not expressly admitted above is hereby **DENIED**.

#### **AFFIRMATIVE DEFENSES**

1. All or portions of Plaintiff's complaint must be dismissed to the extent that Plaintiff failed to exhaust administrative remedies.

2. To the extent that Defendants are named in their personal capacities, all or portions of Plaintiff's complaint must be dismissed pursuant to the doctrine of qualified immunity.

3. To the extent that Defendants are named in their official capacities, all or portions of Plaintiff's complaint must be dismissed pursuant to the doctrine of sovereign immunity and the Eleventh Amendment to the United States Constitution.

4. Any claims for monetary damages in this case are limited under the provisions of 42 U.S.C. § 1997e(e).

**WHEREFORE**, Defendants demand judgment in their favor and against

Plaintiff dismissing Plaintiff's complaint, and an order awarding Defendants' attorneys' fees, as well as such other and further relief as the Court deems appropriate

Dated this 25th day of June, 2019.

Respectfully submitted,

JOSHUA L. KAUL  
Attorney General of Wisconsin

**s/Brandon T. Flugaur**  
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